

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRYCE FRANKLIN,

Petitioner,

vs.

No. CV 18-000413 JCH/KRS

ALISHA LUCERO, WARDEN

Respondent.

ORDER ON PENDING MOTIONS

THIS MATTER is before the Court *sua sponte* on four pending motions filed by Petitioner Bryce Franklin:

1. Petitioner's Motion to Conduct Discovery (Doc. 3);
2. Motion for (6) Month Time Extension to File Petition for Writ of Habeas Corpus (Doc. 8);
3. Motion for (6) Month Time Extension to File Petition for Writ of Habeas Corpus (Doc. 9); and
4. Request for a Hearing on Motion to Conduct Discovery (Doc. 13).

Petitioner Bryce Franklin filed this proceeding as a Petition Under 28 U.S.C. § 2254 by a Prisoner in State Custody. (Doc. 1). Franklin is not challenging his New Mexico state criminal conviction or sentence. Instead he asks this Court to review a prison misconduct report for attempting to bring contraband into the prison facility or to possess drugs and the resulting loss of good time credits. (Doc. 1). Because Petitioner is a prisoner proceeding pro se, the Court is obligated to conduct a preliminary screening of the Petition. *See* Rule 4 of the Rules Governing Section 2254 Cases in the District Courts. Rule 4 states:

“If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or take any other action the judge may order.

Requests for service of process, discovery, submissions of proof, or trial are premature and unavailable prior to the Court's completion of its screening obligation. *See Jones v. Bock*, 549 U.S. 199, 213-214 (2007). If Petitioner's Petition is not dismissed on initial screening, the Court will enter further orders governing service of process, discovery, and scheduling. The Court will deny Petitioner's Motion to Conduct Discovery (Doc. 3) and Request for a Hearing on Motion to Conduct Discovery (Doc. 13) are denied as premature.

The Court will also deny the two Motions for (6) Month Time Extension to File Petition for Writ of Habeas Corpus (Doc. 8, 9). The Motions seeks an extension of time to file habeas corpus petitions regarding matters that are unrelated to this proceeding. The first Motion relates to challenging Petitioner's murder conviction in the New Mexico state courts. (Doc. 8). The second motion seeks to file a habeas corpus petition challenging a different misconduct report and related disciplinary action by the prison. (Doc. 9). The Court takes notice that, since filing of the Petition in this case, Petitioner Franklin has instituted two other habeas corpus proceedings in this Court and had a prisoner civil rights case removed from state court: (1) a petition for writ of habeas corpus in CV 18-01156 JB/JHR; (2) a petition for writ of habeas corpus in CV 18-01239 MV/JHR; and a prisoner civil rights case in CV 18-01099 WJ/SMV. The Court will deny the two Motions for (6) Month Time Extension as moot and unrelated to this proceeding.

IT IS ORDERED that Petitioner's Motion to Conduct Discovery (Doc. 3), Motion for (6) Month Time Extension to File Petition for Writ of Habeas Corpus (Doc. 8), Motion for (6) Month Time Extension to File Petition for Writ of Habeas Corpus (Doc. 9), and Request for a Hearing on Motion to Conduct Discovery (Doc. 13) are **DENIED**.



UNITED STATES MAGISTRATE JUDGE